

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

NO. 3:17-cv-05806-RJB

DECLARATION OF ANDREA
BRENNEKE IN SUPPORT OF
PLAINTIFF STATE OF
WASHINGTON'S BILL OF
COSTS

I, Andrea Brenneke, declare as follows:

1. I am an Assistant Attorney General in the Wing Luke Civil Rights Division of the Washington State Attorney General's Office (AGO) and one of the attorneys of record for Plaintiff, State of Washington, in this matter. I am competent to testify to the matters herein. I make this declaration based on my personal knowledge and belief.

2. To prepare this declaration, I also have reviewed the billing records, invoices, and receipts related to the costs and expenses paid by the State of Washington related to this case and have utilized my professional judgment to include only those costs and expenses that were reasonable and necessary to litigate this case successfully and that are taxable under 28 U.S.C. §1920 and consistent with the Bill of Costs filed in this matter.

1 3. **Fees of the Clerk.** Attached as Exhibit 1 is a true and correct summary of the
 2 cost incurred by the State of Washington for fees of the Clerk, specifically, the filing fee of the
 3 Complaint in Pierce County Superior Court, initiating this lawsuit before it was removed to
 4 federal court, together with the receipt for that fee. The total amount of the fees of the Clerk is
 5 \$241.50.

6 4. **Fees for service of summons.** Attached as Exhibit 2 is a true and correct
 7 summary of the cost incurred by the State of Washington for the fees for service of
 8 summons/service of process of the Complaint, together with the receipt for that fee. The total
 9 amount of fees for service of process is \$80.

10 5. **Fees for printed or electronically recorded transcripts.** Attached as Exhibit 3
 11 is a true and correct summary of the costs incurred by the State of Washington for four categories
 12 of printed or electronically recorded transcripts, together with the invoices for those transcripts.
 13 The total amount of the transcripts is \$41,790.07. As described in more detail below, I affirm
 14 that each of the transcripts included in this cost bill were necessarily obtained for use in this case.

15 6. The first category of transcripts are for the court hearings/trial transcripts in this
 16 case. These include transcripts of pretrial hearings in which the Court made essential rulings on
 17 the record that were not recorded in any other way and that were necessary to understand and
 18 follow in the course of the ongoing litigation. These include: Motion to Dismiss Hearing
 19 11/20/17; Motion to Dismiss, Stay, or Consolidate Hearing 5/28/19; Motion for Reconsideration,
 20 Statement of Interest, Intergovernmental Immunity Hearing 9/12/19, Motions in Limine Hearing
 21 4/13/20, Pretrial Conference 1/10/20; Trial Exhibit Hearing 4/28/21; Pretrial Conference
 22 10/5/21. In addition, Washington ordered the Rough and Final transcripts of the trial proceedings
 23 for both the first trial in June 2021 (resulting in a mistrial) and the Rough transcripts of Phases
 24 1, 2, and 3 of the in-person trial in October 2021. These trial transcripts were essential for the
 25 litigation of the case in that they contained argument, witness testimony under oath, and Court
 26 rulings – all of which were used in the preparation of witness examination, briefing of

1 Washington's Rule 50 motions, Washington's Responses to Defendant's Rule 50 motions, and
 2 other motions, preparation of jury instructions, and closing argument. The subtotal of costs
 3 incurred for court hearings/trial transcripts in this case are in the amount of \$10,386.55.

4 7. The second category of transcripts are for court hearings in other cases about
 5 conditions at the NWDC (*Juarez v. Asher*) or GEO's detainee work programs in other states
 6 (*Menocal v. GEO*). Washington ordered these transcripts to understand the issues, context and
 7 rulings in those cases which were necessary for litigation and use in this case. The subtotal of
 8 costs incurred for court hearing transcripts in related matters is \$184.95.

9 8. The third category of transcripts are for deposition transcripts taken in this case,
 10 or in the *Nwauzor* class action with which this case was consolidated for trial, of witnesses who
 11 were identified by Plaintiffs or Defendants in initial disclosures or pretrial witness disclosures,
 12 were likely to testify at trial, and most of whom did testify at trial.

13 9. The deposition costs incurred by Washington include the transcript and
 14 production costs related to the following depositions noted by the State of Washington: 30(b)(6)
 15 of GEO in the person of Ryan Kimble, Bertha Henderson, Alisha Singleton, Bill McHatton,
 16 Bruce Scott, Ryan Kimble, Gregory Bingham, Leonardo Jaramillo, Iolani Menza, William G.
 17 Brandt, 30(b)(6) of GEO (financials) in the person of Chuck Hill, Brian Evans, and Dan
 18 Ragsdale.

19 10. In addition, the costs incurred by Washington included copies of transcripts of
 20 the depositions noted by Defendant GEO and defended by Washington, including: 30(b)(6)
 21 Deposition of Washington AGO in person of Colleen Melody, Washington's Expert Peter
 22 Nickerson, 30(b)(6) Deposition of Washington Governor's Office in the person of Taylor
 23 Wonhoff, two 30(b)(6) Depositions of Washington Department of Labor and Industries in the
 24 person of Joshua Grice, the Depositions of Lezlie Perrin, Byron Eagle, Sean Murphy, the
 25 30(b)(6) Deposition of Washington's Department of Corrections in the persons of Sarah Sytsma,
 26 Debra Eisen, and Gregory Oliver, and the 30(b)(6) Depositions of Washington's Department of

1 Social and Health Services in the persons of Christina Wells, David Holt, Mark Kettner, and
2 Sarah Pendleton.

3 11. The deposition transcripts were used to prepare witness examinations and many
4 were used for impeachment at trial. In addition, many of the deposition transcripts provided the
5 evidentiary basis for Washington's motions practice in this case, including Washington's
6 motions for summary judgment and responses to GEO's motions for summary judgment and
7 other dispositive motions. The only two witnesses deposed by Washington who did not testify
8 at trial were Leonardo Jaramillo and Gregory Bingham. Mr. Jaramillo was a relevant witness
9 with knowledge about the NWDC and GEO's work program there. Mr. Bingham was GEO's
10 expert witness, who Washington successfully struck as a trial witness by motion. Washington
11 relied heavily on Mr. Bingham's deposition transcript to do so. The subtotal of costs incurred
12 for deposition transcripts is \$29,184.05.

13 12. The fourth category of recordings is for the deposition videos of Brian Evans,
14 GEO's CEO, and John Patrick Griffin, a former GEO employee, both of whom were witnesses
15 at both trials. Mr. Evans was a late disclosed witness, a resident of Florida, and a speaking agent
16 of the Defendant. Washington videotaped the deposition in anticipation of using it at trial in the
17 event Mr. Evans was unable to testify in person or for purposes of cross examination and
18 impeachment. Mr. Evans did testify in both trials and the video recording was not used, but it
19 was necessarily obtained for use in the case. Additionally, GEO took Mr. Griffin's testimony by
20 video. Washington requested the video so that it could prepare its direct as well as rehabilitate
21 the witness, if necessary. Mr. Griffin did testify in both trials and the video recording was not
22 used, but it was necessarily obtained for use in the case. The subtotal of costs incurred for
23 deposition video is \$2,034.52.

24 13. **Fees for witnesses.** Attached as Exhibit 4 is a true and correct summary of the
25 costs incurred by the State of Washington for witness fees, subsistence, and mileage to ensure
26 witness appearance at the two trials of this case, in June 2021 and October 2021, together with

1 the invoices for those fees. During the first trial, John Patrick Griffin, Maria Nayra Gomez
 2 Sotelo, and Orlando Marquez were unable to testify via Zoom from their homes and traveled to
 3 the Attorney General's Office in Seattle to testify. GEO provided mileage estimates for witnesses
 4 represented by GEO. The only witness requiring subsistence payments was Orlando Marquez,
 5 who lives and works in Burbank, Eastern Washington. It was necessary for the State of
 6 Washington to pay for his hotel accommodations to ensure Mr. Marquez's ability to travel from
 7 home and to downtown Seattle, for the first Zoom trial, and to the Tacoma Courthouse, for the
 8 second in-person trial. The duration of stay was necessary to ensure his presence, as anticipated
 9 for the testimony, as well as to prepare him to testify via the Zoom platform. For both trials,
 10 Washington incurred the actual cost of a hotel stay. Notably, costs related to witness fees
 11 expended by Washington for the trial that was originally set for April 2020, but which was
 12 continued due to the COVID-19 pandemic, have been written off and are not being charged. The
 13 subtotal of costs incurred for fees for witnesses included in this tax bill is \$2,052.90.

14 **14. Copying charges.** Attached as Exhibit 5 is a true and correct summary of the
 15 costs incurred for copying charges for copies necessarily obtained for use in this case, together
 16 with the invoice for those copies. The total amount of the copies is \$150.15. Notably,
 17 Washington is charging only for copies made by a Court Reporter and necessarily obtained to
 18 ensure Washington received a copy of the exhibits; Washington is not charging for the volumes
 19 of copies made in-house during the four years of this hard-fought litigation.

20 **15. Compensation of interpreters and costs of special interpretation services.**
 21 Attached as Exhibit 6 is a true and correct summary of the costs incurred for compensation of
 22 interpreters and costs of special interpretation services, together with the invoices for those
 23 services. For a number of witnesses who were not native English speakers, Washington obtained
 24 written declarations in their native language, Spanish, and it was necessary to obtain translation
 25 of their declarations into English to enable their use in motions practice. It was also necessary to
 26 have court certified English/Spanish interpretation services to enable testimony of non-native

1 English speaking witnesses at trial. In addition to English/Spanish interpretation, Washington
2 utilized Spanish captioning services to enable the testimony of witness Orlando Marquez, who
3 is hard of hearing. The total amount of the interpretation services is \$8,328.81.

4 16. The total requested in State of Washington's Motion to Tax Costs is \$52,643.43.

5 DATED this 18th day of November 2021 at Seattle, Washington.

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7 s/ Andrea Brenneke
8 ANDREA BRENNEKE, WSBA No. 22027
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated this 18th day of November 2021 in Montgomery Village, Maryland.

s/ Caitilin Hall

Caitilin Hall
Legal Assistant